

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20438

OVER

Application 29070 of Shiloh Associates, A Partnership,

1220 Airport Blvd., Santa Rosa, CA 95403

filed on July 16, 1987, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1) Unnamed Stream

Pool Creek thence

Windsor Creek thence

Mark West Creek thence

Russian River

(2) Unnamed Stream

Mark West Creek thence

Russian River

2. Location of point of diversion:

40-acre subdivision
of public land survey
or projection thereof

Section

Town-
ship

Range

Base
and
Meridian

(1) DAM NO. 1
SOUTH 800 FEET AND EAST 2,100 FEET FROM NW CORNER OF
SECTION 15

NE $\frac{1}{4}$ OF NW $\frac{1}{4}$

15

8N

8W

MD

(2) DAM NO. 2
SOUTH 600 FEET AND EAST 3,100 FEET FROM NW CORNER OF
SECTION 15

NW $\frac{1}{4}$ OF NE $\frac{1}{4}$

15

8N

8W

MD

County of Sonoma

3. Purpose of use:

4. Place of use:

Section

Town-
ship

Range

Base
and
Meridian

Acres

FIRE PROTECTION

FISH AND WILDLIFE PROTECTION AND
ENHANCEMENT

RECREATIONAL

UNNAMED RESERVOIR WITHIN W $\frac{1}{2}$ OF
NE $\frac{1}{4}$ AND NE $\frac{1}{4}$ OF NW $\frac{1}{4}$

15

8N

8W

MD

IRRIGATION

SW $\frac{1}{4}$ OF NE $\frac{1}{4}$

15

8N

8W

MD

8

SE $\frac{1}{4}$ OF NW $\frac{1}{4}$

15

8N

8W

MD

2

TOTAL

10

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 325 acre-feet per annum to be collected from October 1 of each year to April 30 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1993. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1994. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)
14. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water for recreational and fish and wildlife protection and enhancement upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for those uses. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)
15. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit may be released. (0050043)
16. If the storage dams will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for such dams. (0360048)
17. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)
18. Permittee shall, subject to approval by the Chief of the Division of Water Rights, fence off an area around the existing southern and northern vernal pools prior to construction of the storage reservoir and shall fence around the proposed new southern vernal pools after construction of those pools is completed. All fenced areas shall include as much of the surrounding terrain as possible, but shall in no case be less than 50 feet beyond the perimeter of each pool. Permittee shall maintain all fences for a minimum of four years, or for such lesser time as approved by the Chief of the Division of Water Rights. (0400700)
19. Permittee shall, prior to commencement of construction, complete a census of plant species within all existing pools and their immediate environs. Said census shall be conducted by a qualified biologist approved by the California Department of Fish and Game and the Chief of the Division of Water Rights. Upon completion of the plant species census, permittee shall submit a report to the Chief of the Division of Water Rights for review and approval. (0390700)
20. Permittee shall, prior to commencement of construction and continuing for at least four successive years, two years of which must be during spills at the storage reservoir, perform a quantitative sampling of plant species in the existing northern vernal pool. Sampling shall be performed using a modified belt transect technique and shall be conducted during the flowering period of Navarretia plieantha. Average density of each plant species shall be calculated. The sampling studies shall be conducted by a qualified biologist approved by the California Department of Fish and Game and the Chief of the Division of Water Rights. Results of the sampling studies shall be submitted by October 1 of each year to the Chief of the Division of Water Rights for review and approval. (0390700)
21. Permittee shall, prior to commencement of construction and continuing for four successive years: (1) tabulate flow data for the existing northern vernal pool by measuring flows at the existing ground-level concrete box at the pool's outlet, and (2) map the depth and extent of standing water in the existing northern vernal pool by making, at a minimum, two measurements between major storm events in mid-January and mid-March of each year. At a minimum, three additional depth and extent of standing water measurements shall be taken from mid-April through mid-June of each year to represent the final dry out of the season. If the storage reservoir does not spill during at least two of the required four years of the monitoring program, monitoring shall continue until the record includes at least two years in which spills occur at the storage reservoir. A yearly report of said flow and depth measurements shall be submitted to the Chief of the Division of Water Rights by October 1 of each year. (0100700)

22. Permittee shall, subject to the approval of the California Department of Fish and Game and the Chief of the Division of Water Right, construct new vernal pools to compensate for the project-induced loss of the existing southern vernal pool. The new pools shall have a total surface area of not less than 10,000 square feet and shall be constructed from soils taken from the existing vernal pool. Transferred soil shall be placed in the newly constructed vernal pools in such a manner that the original soil horizons in the existing southern vernal pool are duplicated in the new vernal pools. Soil transfer procedures shall be conducted only during the months of July, August and/or September. (0400300)

23. Permittee shall collect seeds of Navarretia plieantha and Ranunculus lobbii from the existing northern vernal pool for inoculation into the newly constructed southern vernal pools and for banking in case the vernal pool management plan fails. Seeds collected for inoculation shall be stored at the Sonoma State Biology Department and seeds collected for banking shall be stored at the Santa Ana Botanic Garden. The seed inoculation program shall be conducted only after the newly constructed vernal pools are established and the existing northern vernal pool has produced a good seed crop. The seed inoculation and banking programs shall be completed within four years of the establishment of the new vernal pools unless permittee can produce evidence to the satisfaction of the Chief of the Division of Water Rights that a good seed crop at the existing northern pool has not been produced. (0400700)

24. Permittee shall perform yearly quantitative samplings of plant species in the newly constructed southern vernal pools for four consecutive years following their construction. Sampling shall be performed using a modified belt transect technique and shall be conducted during the flowering period of pertinent plant species. Average density of each plant species shall be calculated. Said studies shall be conducted by a qualified biologist approved by the California Department of Fish and Game and the Chief of the Division of Water Rights. Results of the sampling studies shall be submitted by October 1 of each year to the Chief of the Division of Water Rights for review and approval. (0390700)

25. Permittee shall develop an erosion control plan for the storage reservoir, existing northern vernal pool, and proposed new southern pool areas. The proposed plan shall be reviewed and approved by the Chief of the Division of Water Rights prior to commencement of construction. (0490700)

26. For the protection of the existing northern pool, permittee shall bypass whatever flow is necessary to preserve said pool and maintain no net loss of Navarretia Plieantha. Specific bypass quantities shall be recommended as part of the report on flow measurements at the existing northern vernal pool required by other terms of this permit. (0140400)

27. For the protection of the existing northern vernal pool, permittee shall construct the northernmost storage dam in such a manner that water seepage from the reservoir will not affect the northern vernal pool habitat. (0400500)

28. The State Water Resources Control Board reserves jurisdiction over this permit to impose additional conditions, including bypass flows necessary to protect the State designated endangered Navarretia plieantha, or to require compensation if the proposed project causes a reduction in number and/or habitat of such species. (0400600)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

MARCH 28 1990

STATE WATER RESOURCES CONTROL BOARD


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